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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/650,223	08/28/2003	ChiYumi Niwa	B422-241	6354
26272	7590	08/18/2008		
COWAN LIEBOWITZ & LATMAN P.C.			EXAMINER	
JOHN J TORRENTE			LAM, HUNG H	
1133 AVE OF THE AMERICAS			ART UNIT	
NEW YORK, NY 10036			PAPER NUMBER	
			2622	
			MAIL DATE	
			DELIVERY MODE	
			08/18/2008	
			PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/650,223

Applicant(s)

NIWA, CHIYUMI

Examiner

HUNG H. LAM

Art Unit

2622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05/02/08.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 8 and 10-12 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-6, 8 and 10-12 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 28 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. The amendments, filed on 05/02/08, have been entered and made of record. Claims 11-12 are added. Claims 7 and 9 are canceled. Claims 1-6, 8, 10-12 are pending.

Response to Arguments

2. Applicant's arguments with respect to claims 1-6, 8, 10-12 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1, 3 and 5-6, 8 and 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koseki (US-7,098,946) in view of Shigemoto (US-5,469,125) and further in view of Voigt (US-5,566,087).

It is noted that the USPTO considers the Applicant's "one of" language to be anticipated by any reference containing one of the subsequent corresponding elements.

With regarding **claim 1**, Koseki discloses an image pickup apparatus including a first mode for picking up an object image and a second mode for reproducing a recorded image (Fig. 2; see ring-like record/playback button 26 on the circumference of power switch button 25), said apparatus comprising:

an operation member which is switched to said first mode according to an operation to a first position (Fig. 2; ring-like R/P button 26 and on/off button 25), and is switched to said second mode according to an operation to a second position (Col. 11, Ln. 15-22).

However, Koseki fails to explicitly disclose the operation member further itself is automatically forced to be suppressed to a third position different from each of the first position and second position when said operation member is not operated by a user.

Shingemoto teaches a rotary electronic switching device (Fig. 7) which can be pushed to a side by force and returned to initial neutral position when the pushing force is removed (Figs. 7 and 9; Col. 7, Ln. 29-68; Col. 8, Ln. 3-23). In light of the teaching from Shingemoto, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Koseki to include the rotary switching device of Shingemoto in order for a switch to return to initial neutral position when a pushing force is removed. The modifications thus allow a recording and playback switch to response quicker for the next operation.

Koseki as modified by Shingemoto teaches a control (Koseki: Fig. 1; CPU 8) for changing control to said image pickup apparatus according to a current mode thereof and one of the first and second position (Koseki: Col. 11, Ln. 15-22).

However, Koseki in view of Shingemoto fails to explicitly discloses a control unit, which effects different control of said image pickup apparatus in accordance with the mode set

before said operation member is operated being the first mode or the second mode even if said operation member is subjected to a same switching operation for switching from the third position to one of the first and second positions.

Voigt teaches a two-way, center off, momentary contact rocker switch (48) located within a hand controller 14 communicated with an ICU (Fig. 2; CPU 20; Col. 4, Ln. 23-40; Col. 6, Ln. 64-67). Voigt further teaches that when day light television (DLTV) is selected the switch allows the operator to change the camera lens setting toward either telephoto or wide angle mode (Col. 6, Ln. 64-67). As long as this switch is held in the direction of movement desired, the camera lens will continue to a zooming operation in that direction until it reaches its limit of range. When the zoom switch is released, lens movement stops at the degree of telephoto or wide angle it has reached at that time (Col. 7, Lin 1-7; it is noticed that the zoom lens is controlled to stop at either telephoto or wide angle mode when the zoom switch is released to center-off position. The CPU inherently continues to control the zoom lens in tele or wide angle operation when the zoom switch 48 is switched from the center-off position to one of the tele and wide angle operation). In light of the teaching from Voigt, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Koseki and Shingemoto to remain at the same control operation status when the switch is released to a center position and continue to switch to the first (tele) or second (wide) control operation when the switch is switched from the center position. The modifications thus optimize the operation of a two-way or momentary contact rocker switch.

With regarding **claim 3**, Koseki in view of Shingemoto and further in view of Voigt discloses an image pickup apparatus wherein in case that said image pickup apparatus is in an electric power off state (Koseki: Col. 11, Ln. 5-14), said control means turns electric power on according to a mode switching operation of said operation member and starts up said image pickup apparatus in a mode corresponding to a position operated in the mode switching operation (Koseki: Col. 11, Ln. 5-33).

With regarding **claim 5**, Koseki in view of Shingemoto and further in view of Voigt fails to explicitly disclose an image pickup apparatus wherein in a state of said first mode, said control unit switches to a mode different in photographing format from that of said first mode according to the operation of said operation member to said first position.

Official Notice is taken that it is well known and expected in the art for an image pickup apparatus to be switched to different photographing format such that one of the wide angle, telephoto angle, landscape and portrait format. Therefore, it would have been obvious to one of ordinary skill in the art to modify the device of Koseki and Shingemoto to switch to different photographing format. The modifications thus provide a more versatile camera.

As Applicant has not traversed the old and well known statement set forth above, “an image pickup apparatus wherein in a state of said first mode, said control unit switches to a mode different in photographing format from that of said first mode according to the operation of said operation member to said first position” is now taken as admitted prior art. See MPEP 2144.03(c).

With regarding **claim 6**, Koseki in view of Shingemoto and further in view of Voigt fails to explicitly an image pickup apparatus according to claim 1, wherein position in a state of said second mode, said control unit switches to a mode different in reproduction format from that of said second mode according to the operation of said operation member to said second position.

Official Notice is taken that it is well known and expected in the art for an image pickup apparatus to be switched to different reproduction format such that one of the quick review and slide slow. Therefore, it would have been obvious to one of ordinary skill in the art to modify the device of Koseki and Shingemoto to switch to different reproduction format. The modifications thus provide a more versatile camera.

As Applicant has not traversed the old and well known statement set forth above, “wherein position in a state of said second mode, said control unit switches to a mode different in reproduction format from that of said second mode according to the operation of said operation member to said second position” is now taken as admitted prior art. See MPEP 2144.03(c).

With regarding **claim 8**, the claim is a method claim of the apparatus claim 1. Therefore, claim 8 is analyzed and rejected as previously discussed in claim 1.

With regarding **claim 10**, Koseki in view of Shingemoto and further in view of Voigt discloses a storage medium computer-readably storing a program comprising a program code for causing a computer to execute (Koseki: Fig. 1; DRAM 11 and Memory 15; Voigt: Col. 9, Ln. 10-47) said control method of an image pickup apparatus according to claim 8 (see the rejection of claim 8 and/or 1).

With regarding **claim 11**, Koseki discloses an image pickup apparatus including a first mode for picking up an object image and a second mode for reproducing a recorded image (Fig. 2; see ring-like record/playback button 26 on the circumference of power switch button 25), said apparatus comprising:

an operation member which is switched to said first mode according to an operation to a first position (Fig. 2; ring-like R/P button 26 and on/off button 25), and is switched to said second mode according to an operation to a second position (Col. 11, Ln. 15-22).

However, Koseki fails to explicitly disclose the operation member further itself is automatically forced to be suppressed to a third position different from each of the first position and the second position when said operation member is not operated by a user.

Shingemoto teaches a rotary electronic switching device (Fig. 7) which can be pushed to a side by force and returned to initial neutral position when the pushing force is removed (Figs. 7 and 9; Col. 7, Ln. 29-68; Col. 8, Ln. 3-23). In light of the teaching from Shingemoto, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Koseki to include the rotary switching device of Shingemoto in order for a switch to return to initial neutral position when a pushing force is removed. The modifications thus allow a recording and playback switch to response quicker for the next operation.

Koseki as modified by Shingemoto teaches a control unit which changes control to said image pickup apparatus according to a current one of said first and second modes (Koseki: Fig. 1; CPU 8; Col. 11, Ln. 15-22).

However, Koseki in view of Shingemoto fails to explicitly disclose a control unit in which said image pickup apparatus is set with the operation member in said third position and one of the first position and the second position, to which said operation member is operated from the third position.

Voigt teaches a two-way, center off, momentary contact rocker switch (48) located within a hand controller 14 communicated with an ICU (Fig. 2; CPU 20; Col. 4, Ln. 23-40; Col. 6, Ln. 64-67). Voigt further teaches that when day light television (DLTV) is selected the switch allows the operator to change the camera lens setting toward either telephoto or wide angle mode (Col. 6, Ln. 64-67). As long as this switch is held in the direction of movement desired, the camera lens will continue to a zooming operation in that direction until it reaches its limit of range. When the zoom switch is released, lens movement stops at the degree of telephoto or wide angle it has reached at that time (Col. 7, Lin 1-7; it is noticed that the zoom lens is controlled to stop at either telephoto or wide angle mode when the zoom switch is released to center-off position. The CPU inherently continues to control the zoom lens in tele or wide angle operation when the zoom switch 48 is switched from the center-off position to one of the tele and wide angle operation). In light of the teaching from Voigt, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Koseki and Shingemoto to remain at the same control operation status when the switch is released to a center position and continue to switch to the first (tele) or second (wide) control operation when the switch is switched from the center position. The modifications thus optimize the operation of a two-way or momentary contact rocker switch.

With regarding **claim 12**, Koseki discloses a control method of an image pickup apparatus including an operation member which is switched to a first mode for picking up an object image according to an operation to a first position (Fig. 2; ring-like R/P button 26 and on/off button 25), and is switched to a second mode for reproducing a recorded image according to an operation to a second position (Col. 11, Ln. 15-22).

However, Koseki fails to explicitly disclose the operation member further itself is automatically forced to be suppressed to a third position different from each of the first position and the second position when said operation member is not operated by a user.

Shingemoto teaches a rotary electronic switching device (Fig. 7) which can be pushed to a side by force and returned to initial neutral position when the pushing force is removed (Figs. 7 and 9; Col. 7, Ln. 29-68; Col. 8, Ln. 3-23). In light of the teaching from Shingemoto, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Koseki to include the rotary switching device of Shingemoto in order for a switch to return to initial neutral position when a pushing force is removed. The modifications thus allow a recording and playback switch to response quicker for the next operation.

Koseki as modified by Shingemoto teaches a control method comprising the step of changing control to said image pickup apparatus according to a current one of said first and second modes (Koseki: Fig. 1; CPU 8; Col. 11, Ln. 15-22).

However, Koseki in view of Shingemoto fails to explicitly disclose the step of changing the control in which said image pickup apparatus is set with the operation member in said third position and one of the first position and the second position, to which said operation member is operated from the third position.

Voigt teaches a two-way, center off, momentary contact rocker switch (48) located within a hand controller 14 communicated with an ICU (Fig. 2; CPU 20; Col. 4, Ln. 23-40; Col. 6, Ln. 64-67). Voigt further teaches that when day light television (DLTV) is selected the switch allows the operator to change the camera lens setting toward either telephoto or wide angle mode (Col. 6, Ln. 64-67). As long as this switch is held in the direction of movement desired, the camera lens will continue to a zooming operation in that direction until it reaches its limit of range. When the zoom switch is released, lens movement stops at the degree of telephoto or wide angle it has reached at that time (Col. 7, Lin 1-7; it is noticed that the zoom lens is controlled to stop at either telephoto or wide angle mode when the zoom switch is released to center-off position. The CPU inherently continues to control the zoom lens in tele or wide angle operation when the zoom switch 48 is switched from the center-off position to one of the tele and wide angle operation). In light of the teaching from Voigt, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Koseki and Shingemoto to remain at the same control operation status when the switch is released to a center position and continue to switch to the first (tele) or second (wide) control operation when the switch is switched from the center position. The modifications thus optimize the operation of a two-way or momentary contact rocker switch.

5. Claims 2 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koseki in view of Shingemoto, in view of Voigt and further in view of Ejima (US-2002/0,008,765).

Regarding **claim 2**, Koseki in view of Shingemoto and further in view of Voigt fails to explicitly disclose an image pickup apparatus according to claim 1, wherein during said second

mode, said control unit shifts said second mode to said first mode without operating said operation member, and according to an operation of an operation member related to photographing, different from said operation member related to the first and second modes.

In the same field of endeavor, Ejima teaches a camera which performs a photographing operation immediately by operating a shutter release button (5) even in the quick review mode (0095-0096). In light of the teaching from Ejima, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Koseki, Shingemoto and Voigt to perform a photographing operation even in the quick review mode. The modifications thus allow a digital camera to capture any desired images at any instances.

With regarding **claim 4**, Koseki in view of Shingemoto and further in view of Voigt fails to explicitly disclose an image pickup apparatus according to claim 1, wherein said control unit withdraws a lens barrel according to the operation to said second position by unit of said operation member, when said lens barrel is fed forward in a state of said second mode.

In the same field of endeavor, Ejima teaches a camera wherein a photographing zoom lens 2, which has been driven out retracts to the state shown in Fig. 1A if the electronic still camera 1 is switched to the reproduction mode (0038; 0053). In light of the teaching from Ejima, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Koseki, Shingemoto and Voigt to retract a photographing zoom lens in the reproduction mode. The modifications thus provide a means for protecting the photographing zoom lens while images are reviewed.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a) Gillman (US-6,566,619) discloses a rocker switch with centering torsion spring.

b) Tsuda (US-6,613,989) discloses a multi-directional switch.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUNG H. LAM whose telephone number is (571)272-7367. The examiner can normally be reached on Monday - Friday 8AM - 5PM.

9. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, LIN YE can be reached on 571-272-7372. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HL

08/15/08

/Lin Ye/
Supervisory Patent Examiner, Art Unit 2622